

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JASON COWGER,)	
)	
Claimant,)	IC 2003-014948
v.)	2003-010196
)	
FLEETWOOD ENTERPRISES, INC.,)	ORDER DENYING
)	RECONSIDERATION
Employer,)	
)	
and)	
)	
NATIONAL UNION FIRE INSURANCE)	Filed April 16, 2008
COMPANY OF PITTSBURG,)	
)	
Surety,)	
Defendants.)	
)	

On February 27, 2008, Claimant filed a motion requesting reconsideration of the Industrial Commission's decision filed February 8, 2008, in the above referenced case. Defendants filed a response on March 11, 2008. Claimant did not file a reply.

The hearing on this matter was held on September 1, 2005. After a change of counsel for Claimant and several status conferences in 2006 and 2007, the parties agreed that a second hearing was not necessary but that the record would be supplemented with additional documentary evidence. In October and November 2007, Claimant and Defendants submitted additional evidence and briefs.

The Commission's decision found, in addition to other conclusions, that Claimant failed to establish entitlement to medical care beyond September 1, 2005, and that Claimant did not prove entitlement to PPI or disability.

In the motion for reconsideration Claimant, now acting *pro se*, alleges that the Commission's findings lack proof. Claimant argues that Dr. Phillips decision to release Claimant to full duty work was vindictive. Claimant questions how the Commission could find that his continuing back problems are not related to the industrial accident. The motion for reconsideration includes an attached document approximately 30 pages in length.

Defendants contend that while some of Claimant's attachments are already in the record, the documents that were not submitted as exhibits to the record are not appropriate for review now. Defendants argue that the Commission properly applied the standard, as well as the relevant case law, to the evidence provided and found that Claimant failed to prove entitlement to PPI, disability, and medical care beyond September 1, 2005.

Idaho Code § 72-718 permits a party to request reconsideration or rehearing does not obligate the Commission to grant such request. All the pages submitted by Claimant are dated before Claimant's submitted supplement exhibits into the record on October 16, 2007, with the exception of a two page letter from a clinical counselor dated February 25, 2008. Claimant does not explain why the letter from the counselor could not have been obtained prior to the submission of the supplemental exhibits, nor does Claimant explain its relevance to the adjudicated issues.

Claimant had ample opportunity to present evidence at hearing and after the hearing with his brief and supplemental exhibits. All of the documents attached to Claimant's motion for reconsideration were created prior to the submission of the additional evidence, with the exception of the counselors letter was discussed above. To the extent that Claimant alleges these are new evidence, Claimant was given the opportunity and in fact did submit additional evidence with his brief on October 16, 2007.

The Commission found that none of Claimant's treating physicians were able to find any objective cause for Claimant's continuing complaints about his T-spine, L-spine, left hip, and left elbow, despite extensive diagnostic testing. None of Claimant's additional physical complaints were ever casually related to his industrial injuries.

Although Claimant disagrees with the Commission's findings and conclusion, the arguments raised by Claimant's request for reconsideration were considered and decided by the Commission in the original decision. The Commission's decision of February 8, 2008, in the above referenced case, is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision.

Based upon the foregoing reasons, Claimant's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

DATED this _16th___ day of April, 2008.

INDUSTRIAL COMMISSION

James F. Kile, Chairman

R.D. Maynard, Commissioner

Thomas E. Limbaugh, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

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CERTIFICATE OF SERVICE

I hereby certify that on _16th_ day of April, 2008, a true and correct copy of the foregoing ORDER DENYING RECONSIDERATION was served by regular United States Mail upon each of the following:

JASON COWGER
1104 NECTARINE STREET
NAMPA ID 83686

ERIC S BAILEY
PO BOX 1007
BOISE ID 83701-1007

sb

_____/s/_____
